

RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUL 13 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
North American Numbering Council)	CC Docket No. 95-155
Recommendation That Database Service)	NSD File No. L-98-85
Management, Inc. Remain the Toll Free)	
Database Administrator)	

BELLCORE'S REPLY COMMENTS

Only two parties, of the more than thirty (30) entities represented on the North American Numbering Council (NANC), filed Comments regarding NANC's recommendation of DSMI as a neutral toll free database administrator. Sprint actually supports NANC's recommendation and states: "[Sprint] does not object to the reappointment of DSMI as the toll free number database administrator...on the basis of its performance, which we believe has been satisfactory to date." Sprint Comments at p.1. Ironically, MCI emphasizes, on the one hand, that there is no need to change the day-to-day management of DSMI, as "the day-to-day operations are working well.. the Commission need not consider changing either the management of operations of DSMI itself" MCI Comments at p.18, then disagrees with the NANC recommendation to retain DSMI as the toll free database administrator, and suggests that DSMI cannot continue in its current role unless and until Bellcore establishes its neutrality. MCI's Comments about DSMI are particularly egregious in that they present nothing except mischaracterization of FCC rules and speculation to persuade the Commission to reject the NANC recommendation.

No. of Copies rec'd
List A B C D E

27 2

Bellcore shows below that DSMI irrefutably meets all of the Commission's neutrality criteria: DSMI does not assign toll free numbers; it is not an affiliate of any telecommunications provider; it does not issue a majority of its debt to nor derive a majority of its revenues from any telecommunications service provider; and it is not subject to undue influence by any party with a vested interest in the outcome of number administration activities. NANC's recommendation to retain DSMI is well-founded and should be adopted by the Commission.

I. DSMI Does not Assign or "Administer" Toll Free Numbers

MCI's allegations to the contrary, DSMI does not assign toll free numbers to any entity. As stated in its December 10, 1997 letter to the NANC, DSMI is responsible for managing the SMS/800 service, not the numbers. DSMI is responsible for assuring that the services provided through the SMS/800 system (a) are provided in a manner that is consistent with the tariffs and contracts governing those services, and (b) meets the needs and expectations of the Responsible Organizations (Resp Orgs), and other users of the system. The actual "number administration" is provided by the various industry forums under the Alliance for Telecommunications Industry Solutions (ATIS) umbrella. In particular, the SMS/800 Number Administration Committee (SNAC) and the Industry Numbering Committee (INC) provide number administration direction for toll free services. DSMI, acting as the business manager for the RBOCs, does not have a direct role in number administration for toll free services.

MCI observes that the FCC itself has recognized that overall number administration includes four broad functions: policy making, dispute resolution,

maintenance of number databases and processing applications for numbers.¹ DSMI is not directly responsible for any of these activities. Policy making is handled by a combination of the FCC and the industry forums, primarily the SNAC and the INC. Dispute resolution is handled by the FCC. The maintenance of the numbering databases is managed by the Resp Orgs themselves via their direct access to the system. Similarly, the processing of applications for numbers is also handled by the Resp Orgs who have direct access to the system. Even if DSMI were directly responsible for "number administration", which it is not, DSMI and Bellcore meet the neutrality criteria established by the FCC.

II. Bellcore/DSMI Are Neutral

The FCC first established criteria for determining whether a number administrator met the impartiality standards of Section 251(e) of the Telecommunications Act of 1996 in CC Docket 92-237, at para. 69:

1) a respondent may not be an **affiliate of any telecommunications service provider(s)** [emphasis added] as defined in the Telecommunications Act of 1996. "Affiliate" is a person who controls, is controlled by, or is under the direct or indirect common control with another person. A person shall be deemed to control another if such person possesses, directly or indirectly, (i) an equity interest by stock, partnership (general or limited) interest, joint venture participation, or member interest in the other person ten (10%) percent or more of the total outstanding equity interests in the other person, or (ii) the power to vote ten (10%) percent or more of the securities by (stock, partnership (general or limited) interest, joint venture participation, or member interest) having ordinary voting power for the election of directors, general partners, or management of such other person; or (iii) the power to direct or cause the direction of the management and policies of such other person, whether through the ownership of or right to vote voting rights attributable to the stock, partnership (general or limited) interest, joint venture participation, or member interest of such other person, by contract (including but not limited to stockholder agreement partnership (general or limited) agreement, joint venture agreement, or operating agreement), or otherwise;

¹ Administration of the North American Numbering Plan, Notice of Proposed Rulemaking, 9 FCC Rcd. 2068 (1994) at para. 7. (NANP Order.)

2) a respondent and any affiliate thereof may not issue a majority of its debt to nor may it derive a majority of its revenues **from any telecommunications service provider**. [emphasis added] "Majority" shall mean greater than 50 percent, and "debt" shall mean stocks, bonds, securities, notes loans, or any other instrument of indebtedness; and

3) notwithstanding the Neutrality Criteria set forth in 1) and 2) above, a respondent may be determined to be or not to be subject to undue influence by parties with a vested interest in the outcome of numbering administration activities. NANC may conduct an evaluation to determine whether a respondent meets the undue influence criterion."²

The NANC working group, consisting of representatives from the more than 30 member-entities of the NANC, reviewed DSMI's status and properly determined that it met these criteria.

(1) As described in our Comments filed July 1, Bellcore is not "an affiliate of any telecommunications service provider(s) as defined in the Telecommunications Act of 1996. DSMI is an affiliate of Bellcore, which in turn is a wholly-owned subsidiary of Science Applications International Corporation (SAIC). The sale of Bellcore to SAIC was completed on November 14, 1997. SAIC is an employee-owned company with no financial affiliations with any telecommunications provider. Neither Bellcore nor SAIC are themselves telecommunications service providers. Bellcore clearly meets this requirement.

(2) The Commission's next criteria for neutrality goes to the issuance of debt and the collection of revenues by the proposed administrator. Again, Bellcore/DSMI meet this criteria. DSMI, as a separate entity, does not carry any debt burden. Bellcore's debt is

² In the Matters of Administration of North American Numbering Plan, Toll Free Service Access Codes, CC Docket No. 92-237, CC Docket No. 95-155, FCC 97-372, released October 9, 1997, para. 69.

not derived from any telecommunications service provider, but rather from public financial institutions.

Moreover, Bellcore also meets the revenue portion of the test as codified in Section 52.12(a)(2) of the Commission's rules. *See*, 47 C.F.R. Sec. 52.12(a)(2). That rule provides that neither the administrator nor any of its affiliates may derive a majority of its revenues from any telecommunications provider. MCI completely misstates this test at p. 18 of its Comments. Neither SAIC, Bellcore, nor the SAIC/Bellcore combination derive more than a majority, that is, more than fifty percent (50%) of revenues from any telecommunications service provider; in fact, they derive significantly less than that, thus, they satisfy this portion of the rule as well.

Of more than passing interest to the NANC inquiry should be the source of the revenues Bellcore/DSMI garner from their respective SMS/800 activities. The major sources of these revenues are the Resp Orgs, that is, the tariff users. As MCI itself pointed out, "Both MCI and AT&T - the two largest toll-free service providers" make the highest contributions to SMS/800 revenues. MCI Comments, at p. 12. A review of publicly available data suggests that over 90% of all toll free numbers, which is roughly comparable to revenue, is associated with the interexchange carriers, not local exchange carriers.

(3) MCI's comments generally assert that by virtue of being "aligned" with a certain segment of the industry, and by virtue of Bellcore's provision of the software to the SMS/800 system, that neither Bellcore nor DSMI are neutral, because they are necessarily subject to undue influence by parties with a vested interest in the outcome of numbering administration and related activities. Specifically, MCI claims that "DSMI is

subject to "undue influence" by its owner [Bellcore], which has a vested interest in toll-free number administration since changes in the system directly affect Bellcore's revenues associated with software development and modification." MCI Comments at p. 16. The implication here is that DSMI is responsible for changes in the SMS/800 software that affect the outcome of numbering administration and related actions, and can manage those changes in a way that advantages Bellcore. The facts show otherwise. It is the FCC, the SNAC and the RBOCs (through the SMS/800 Management Team (SMT)) that are in control of the decision process for software changes that affect the outcome of numbering administration and related actions. One such recent example involved the software changes that the FCC directed DSMI to make in order to conserve the 800 number resource and to introduce the 888 toll free code. In fact, the FCC praised the performance of Bellcore/DSMI in introducing the 888 toll free code.³

With the exception of FCC-mandated actions, the SNAC defines new software features which affect number administration and related activities and manages the processes by which those features are prioritized. DSMI oversees only those changes that have been prioritized by the SNAC, and authorized by the SMS/800 Management Team. DSMI is not a decision maker with regard to which changes to the software that affect the outcome of numbering administration and related actions. Such software changes are directed by the FCC, the SNAC and the RBOCs and are not under the "undue influence" of either Bellcore or DSMI.

However, as part of its responsibilities as the toll free database administrator and the manager of the SMS/800 system, DSMI is involved with coordinating

³ See letter from Kathleen B. Levitz, Deputy Chief Common Carrier Bureau to Mr. George Via, Executive Vice President, Bellcore, dated March 21, 1996. (Attachment A)

recommendations to the SMS/800 Management Team relating to the performance the SMS/800 system, including expansions to handle additional toll free codes and the introduction of the latest computer system and software technologies, such as CMOS server/mainframe CPUs, client servers, TCP/IP communications for the largest users such as MCI, AT&T and Sprint, and Graphical User Interfaces to improve the access for all users to the SMS/800 system. Again, all funding decisions relating to changes to the SMS/800 computer systems are the ultimate responsibility of the SMS/800 Management Team.

MCI claims further that because DSMI is “under contract to the RBOC-controlled SMT, that DSMI in fact operates as a ‘representative’ of the RBOCs, and thus is affiliated with “one particular segment of the industry.” Thus, MCI asserts that the “*potential (italics added)* exists for DSMI to make decisions that would benefit the RBOCs, who also have a vested interest in the outcome of toll-free numbering administration decisions.” MCI Comments, at p. 17. These MCI claims are also baseless. First, MCI ignores the fact that DSMI and the other entities involved with the provision of SMS/800 service are obligated to perform their duties in a non-discriminatory manner, consistent with the terms and conditions of the SMS/800 Tariff.⁴ Second, MCI ignores the Commission’s role in all these activities. Not only is the SMS/800 Tariff on file with the FCC, and not only have all tariff filings been subject to full industry review and comment, but in 1996 the FCC conducted an audit of Bellcore and DSMI including “reviewing DSMI’s 800 Service Management System (SMS/800) administration policies

⁴ Jt. BOC F.C.C. SMS/800 Functions Tariff No. 1 (SMS/800 Tariff).

and procedures for compliance with the Commission's rules." ⁵ The FCC auditors gave Bellcore and DSMI a completely clean bill of health. (see Attachment B)

Conclusion

Accordingly, as recognized by both MCI and Sprint, DSMI's performance, to date, has been satisfactory. Bellcore/DSMI meet the statutory requirements for a neutral, impartial entity and NANC's recommendation to retain DSMI as the toll free database administrator should be accepted by the Commission.

Respectfully submitted,

BELL COMMUNICATIONS RESEARCH,
INC.

By: 

Louise L. M. Tucker
Its Attorney
2101 L St., N.W.
Washington, D.C. 20007
202-776-5440

July 13, 1998

⁵ Letter from Jose Luis Rodriguez, Chief, Audits Branch, to Mr. Michael J. Knapp, Director Federal Regulatory Matters, Bellcore, dated March 7, 1996. (Attachment B hereto).



Federal Communications Commission

Washington, D.C. 20554

March 21, 1996

ATTACHMENT A

Mr. George Via
Corporate Vice President and
Executive Vice President
Bellcore
Morris Corporate Center
445 South Street
MCC 1A340G
Morristown, New Jersey 07960-6438

Dear Mr. Via:

As you are aware, the industry completed its implementation of the 888 toll-free number as the next toll-free service number on March 1. A significant part of that implementation process was played by Bellcore's Database Services Management Inc. (DSMI). The assistance that Michael Wade and his staff in New Jersey and Michael Knapp in Bellcore's Washington office gave during our initial audit of the 800 numbers was invaluable to our understanding of the 800 number shortage problem. The on time readiness of the SMS/800 software was a key first step in having the SMS System ready for 888 number assignments. On numerous occasions my staff required DSMI's immediate assistance in resolving issues; Michael Wade and the DSMI/Bellcore team responded. When we capped the number of 800 numbers carriers could reserve each week, DSMI and Bellcore were able to execute the necessary procedures on an expedited basis. When we request detailed reports in a short time frame, again DSMI and Bellcore responded. I also greatly appreciate the time both Michaels spent briefing my staff on the progress being made throughout the implementation process.

Thank you and your DSMI/Bellcore team for a job well done and my personal gratitude for assisting the FCC in implementing the 888 toll-free service on time.

Sincerely yours,

Kathleen B. Levitz

Kathleen B. Levitz
Deputy Chief
Common Carrier Bureau

cc: G. Heilmeier
M. Grove

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554
March 7, 1996

IN REPLY REFER TO:
1600E3

Mr. Michael J. Knapp
Director, Federal Regulatory Matters
Bellcore
WAS-600
Washington, DC 20037

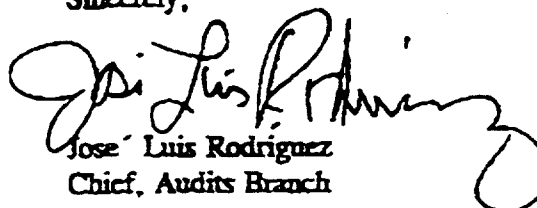
Dear Mr. Knapp:

We completed our audit of Bellcore and its nonregulated affiliate, Database Services Management, Inc. (DSMI). This audit included: (i) reviewing and evaluating Bellcore's compliance with the 1991 NARUC/FCC joint audit findings and recommendations, (ii) examining DSMI's affiliated transactions for compliance with 47 C.F.R. 32.27 of the Commission's rules, and (iii) reviewing DSMI's 800 Service Management System (SMS/800) administration policies and procedures for compliance with the Commission's rules. Additionally, in response to Commission and industry concerns over the imminent exhaustion of toll free 800 number availability, we expanded our audit scope to review 800 number usage within the SMS/800 number system.

Based on the above, we concluded that Bellcore adequately implemented the 1991 NARUC/FCC joint audit recommendations and, based on our review of the Coopers & Lybrand 1994 cost allocation workpapers, it appears that transactions between DSMI and Bellcore and Southwestern Bell comply with the affiliated transactions rules. We also determined that DSMI administered the SMS/800 number system in accordance with the SMS/800 number administration guidelines. Finally, nothing came to our attention at Bellcore regarding the above matters which would require further action by us at the present time.

Should you have questions or concerns regarding the above matter, contact Mr. Robert Shipp, audit manager, at (202) 418-0842.


Sincerely,


Jose Luis Rodriguez
Chief, Audits Branch

CERTIFICATE OF SERVICE

Docket 95-155
NSD File No. L-98-85

I, Angela Patterson, do hereby certify on this 13th day of July, 1998, that I have served a copy of the foregoing document via messenger or U.S. First Class Mail, to the parties below:


Angela Patterson

Mary De Luca
MCI Telecommunications Corp.
1801 Pennsylvania Ave., NW
Washington, DC 20006

Glenn B. Manishin
Blumenfeld & Cohen—Technology Law
Group
1615 M Street, N.W., Suite 700
Washington, DC 20036

Kathryn C. Brown
Chief
Federal Communications Commission
Common Carrier Bureau
1919 M Street, NW - Room 500
Washington, DC 20554

James Casserly
Legal Advisor
Federal Communications Commission
Office of Commissioner Susan Ness
1919 M Street, NW - Room 832
Washington, DC 20554

Erin K. Duffy
Federal Communications Commission
Network Services Division, Common
Carrier Bureau
2000 M Street, NW - Suite 235
Washington, DC 20554

Patrick E. Forster
Electronics Engineer
Federal Communications Commission
Network Services Division, Common
Carrier Bureau
2000 M Street, NW - Suite 235
Washington, DC 20554

Paul Gallant
Legal Advisor
Federal Communications Commission
Office of Commissioner Gloria Tristani
1919 M Street, NW - Room 826
Washington, DC 20554

Jeannie Grimes
Federal Communications Commission
Network Services Division, Common
Carrier Bureau
2000 M Street, NW - Suite 235
Washington, DC 20554

ITS
1231 20th Street, NW
Washington, DC 20036

Kevin Martin
Legal Advisor
Federal Communications Commission
Office of Commissioner Furchgott-Roth
1919 M Street, NW - Room 802
Washington, DC 20554

John T. Nakahata
Chief of Staff
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Marty Schwimmer
Network Services Division, Common
Carrier Bureau
Federal Communications Commission
2000 M Street, NW - Suite 235
Washington, DC 20554

Leon M. Kestenbaum
Norina T. Moy
Sprint Communications Company
1850 M Street, NW, Suite 1110
Washington, DC 20036

Jane E. Mago
Senior Legal Advisor
Federal Communications Commission
Office of Commissioner Michael Powell
1919 M Street, NW - Room 844
Washington, DC 20554

Geraldine Matise
Chief
Federal Communications Commission
Network Services Division, Common
Carrier Bureau
2000 M Street, NW - Suite 235
Washington, DC 20554

Thomas Power
Legal Advisor
Federal Communications Commission
Office of Chairman William E. Kennard
1919 M Street, NW - Room 814
Washington, DC 20554

Gayle Radley Teicher
Attorney
Network Services Division, Common
Carrier Bureau
Federal Communications Commission
2000 M Street, NW - Suite 235
Washington, DC 20554